

**REMARKS**

Claims 14–29 are pending in this application. By this Amendment, claims 14–26 are amended, and claims 27–29 are added. Support for the amendments to the claims may be found, for example, in the original claims. No new matter is added.

In view of the foregoing amendments and following remarks, reconsideration and allowance are respectfully requested.

**I. Rejection under 35 U.S.C. §112, Second Paragraph**

The Office Action rejects claims 14–26 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. By this Amendment, claims 14–26 are amended to obviate the rejections. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

**II. Rejection Under 35 U.S.C. §102**

The Office Action rejects claims 14–26 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,943,522 to Eisinger et al. ("Eisinger"). Applicants respectfully traverse the rejection.

Independent claims 14, 16, and 17 each require that its respective specifically recited elements are deposited "separately, successively and extemporaneously" in the collection zone of the recited porous solid support. Eisinger fails to teach or suggest such a feature.

Although Eisinger may disclose separately adding to its membrane a label and a sample, Eisinger fails to disclose an instance where a label and a sample are added separately, successively, and extemporaneously to its membrane. Instead, Eisinger discloses "providing a suspension of detectable particles along with the sample, or subsequent to the passage of sample through the indicator zone." *See* Eisinger, column 18, lines 48–50. Furthermore, Eisinger's broad disclosure at column 5, lines 38–41, that "visible particles in, added to, or

applied before or after, the sample are used for detection by being trapped in the indicator zone by the binding pair complex" clearly does not anticipate the recited methods because it fails to specifically require "separately, successively and extemporaneously" depositing its visible particles and the sample. As explained in the Applicants' specification:

In the methods according to the present invention, the labeled binding reagent, the sample and, where appropriate, the diluent are deposited separately, successively and in liquid form in the collection zone of the solid support. Extemporaneous deposition of the labeled binding reagent in liquid form before the sample and/or before the diluent makes it possible to decrease background noise and Hook effect while at the same time increasing sensitivity, due to the immediate and complete contact between the sample and the labeled binding reagent. The reproducibility of the methods according to the invention is also considerably increased by the fact that the dose of labeled binding reagent added in liquid form is precise.

In addition, in the methods according to the present invention, the extemporaneous deposition of the labeled binding reagent in liquid form before the sample and/or before the diluent makes it possible to obtain a washing effect that results in a decrease in the background noise and in the Hook effect. This is particularly advantageous for the detection of analytes in a complex sample such as blood, for example.

See page 16, line 18 to page 17, line 1.

For at least the reasons discussed above, Eisinger does not anticipate independent claims 14, 16, and 17. Claims 15 and 18-26 variously depend from claims 14, 16, and 17 and, thus, also are not anticipated by Eisinger. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

### **III. New Claims**

By this Amendment, new claims 27-29 are presented. New claims 27-29 variously depend from independent claims 14, 16, and 17 and, thus, distinguish over Eisinger for at least the reasons discussed above with respect to those claims. Prompt examination and allowance of new claims 27-29 are respectfully requested.

**IV. Conclusion**

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the application are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Attachment:

Petition for Extension of Time

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